REMARKS

Claims 1-51 are pending in the present application. Claims 1, 2, 5-17, 19, 20, 22-27, 29, 30, 32, 34, 35, 41, 42, 45, 50 have been amended. Claims 3, 4, 18, 21, 28, 31, 33, 36-40, 43, 44, 46-48 have been canceled. All amendments are supported by the original specification. No new matter was added.

The 3/21/05 Office Action objected to Figs. 1-8. Figs. 1-8 have been labeled as "Prior Art," as instructed by the Office Action.

The Office Action rejected Claim 44 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 44 has been canceled.

The Office Action rejected Claims 8-10, 12, 18, 9, 20-22 and 28-32 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. These claims have been amended or canceled. An "idle open connection" may have been previously in a "busy open" state when the connection transmitted data during a period of time at a data rate. Additional details and examples are described on pp. 19-25 of the original specification.

The Office Action rejected Claims 1-4, 6, 11-15, 17, 18, 22, 23, 25, 32-34, 36, 37, 39-43, 45-48, and 51 under 35 U.S.C. § 102(e) as being anticipated by Zellner et al., U.S. Patent No. 6,069,882.

Col. 5, lines 40-52 of Zellner discloses "ascertain[ing] whether there is an idle channel available to service the request for service from mobile 1" in block 202 of Fig. 2. "If ... there is not an idle channel available at step 202, the method follows the "no" branch from step 202 to step 206." Thus, there is no "idle" channel by the time the method reaches block 212 to "select" mobile 2 with the "longest call" (col. 6, lines 26-34).

In contrast, Claim 1 recites "selecting one of the pre-existing idle open connections based on at least one of (a) open connection times and (b) previous data traffic activity of the pre-existing idle open connections." Zellner does not disclose this limitation of Claim 1.

Furthermore, Zellner does not disclose "selecting one of the pre-existing idle open connections," "releasing said selected pre-existing idle open connection; and allocating, to said

new connection, communication resources corresponding to said released, selected pre-existing idle open connection," as recited in Claim 1.

Claims 3, 4, 18, 21, 33, 36-40, 43, 44, 46-48 have been canceled. Claims 2, 6, 11-15, 17, 22, 23, 25, 32, 34 and 51 depend from Claim 1 and should be allowable for the reasons stated above. Claim 41 contains similar limitations as Claim 1 and should be allowable for the reasons stated above.

Claim 45 recites "selecting a pre-existing idle open connection in an access network between the access terminal and the data network based on a grade of service assigned to said pre-existing open connection and data traffic activity of the pre-existing open connection," which is not disclose by Zellner.

The Office Action rejected Claims 24, 26, 28, 35, 38 and 44 under 35 U.S.C. § 103(a) as being unpatentable over Zellner in view of Yao et al., U.S Patent No. 5,983,114.

Claims 28, 38, 44 have been canceled.

Claims 24, 26, 35 depend from Claim 1 and should be allowable over Zellner for the reasons stated above. The combination of Zellner and Yao also does not teach Claim 1. Yao discloses "monitoring link activity" (Abstract), but Yao does not disclose "in response to the detected request, determining whether an access network between the access terminal and the data network has an overload condition," "selecting one of the pre-existing idle open connections based on at least one of (a) open connection times and (b) previous data traffic activity of the pre-existing idle open connections; releasing said selected pre-existing idle open connection; and allocating, to said new connection, communication resources corresponding to said released, selected pre-existing idle open connection," as stated in Claim 1.

For at least these reasons, Claims 24, 26, 35 should be allowable.

The Office Action rejected Claims 7-10, 16, 19-21, 27, 29, 30 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Zellner in view of Alperovich et al., U.S. Patent No. 5,940,763.

Claims 21 and 31 have been canceled.

Claims 7-10, 16, 19-20, 27, 29, and 30 depend from Claim 1 and should be allowable over Zellner for the reasons stated above. The combination of Zellner and Alperovich also does not teach Claim 1. For example, Alperovich does not teach "selecting one of the pre-existing

idle open connections based on at least one of (a) open connection times and (b) previous data traffic activity of the pre-existing idle open connections" and "releasing said selected pre-existing idle open connection," as recited in Claim 1.

For at least these reasons, Claims 7-10, 16, 19-20, 27, 29, and 30 should be allowable.

The Office Action rejected Claims 5, 49 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Backstrom et al., U.S. Patent No. 5,903,851.

Claim 5 depends from Claim 1. Backstrom does not teach "detecting a request for opening a new connection between an access terminal and a data network for communication of data," and "in response to the detected request, determining whether an access network between the access terminal and the data network has an overload condition," and "selecting one of the pre-existing idle open connections," as stated in Claim 1.

For Claim 49, Backstrom does not teach "selecting two or more open connections based on a grade of service assigned to said open connections; determining whether two or more of the selected open connections are in an idle open state; selecting an idle open connection, from said two or more selected open connections in said idle open state, with a longest idle open state connection time; releasing said selected idle open connection; and allocating, to said user, communication resources corresponding to resources released based on said releasing said selected idle open connection."

For Claim 50, Backstrom does not teach "selecting two or more open connection based on a grade of service assigned to said open connections; determining whether two or more of the selected open connections are in an idle open state; selecting an idle open connection, from said two or more selected open connections in said idle open state, used to transfer a predetermined amount of data in a predetermined period of time; releasing said selected idle open connection; and allocating, to said user, communication resources corresponding to resources released based on said releasing said selected idle open connection."

For at least these reasons, Claims 5, 49 and 50 should be allowable.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: 6/29/2005

By: _____
Alex C. Chen, Reg. No. 45,591
(858) 651-5363

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 651-4125
Facsimile: (858) 658-2502

IN THE DRAWINGS

Please amend the drawings as follows:

Figs. 1-8 have been labeled with "Prior Art," as instructed by the Office Action.

In Fig. 11, the text in block 1206 has been amended to "RELEASE RESOURCES FOR THE IDLE OR BUSY CONNECTION" to comply with the original specification.

Replacement sheets for Figs. 1-8 and 11 are enclosed.